

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)
)
Plaintiff,) No. 2:11-cr-00070-RAJ
)
)
vs.) Seattle, WA
)
ROMAN SELEZNEV,)
)
Defendant.) Sentencing
) April 21, 2017

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE JUDGE RICHARD A. JONES
UNITED STATES DISTRICT COURT

APPEARANCES:

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1 THE CLERK: We are here for sentencing in the matter
2 of the United States vs. Roman Seleznev, Cause Number CR11-70,
3 assigned to this court.

4 If counsel and the probation officer and the interpreter
5 could all please rise and make your appearances for the record.

6 MR. BARBOSA: Good morning, Your Honor. Norman
7 Barbosa, Seth Wilkinson, and Harold Chun, on behalf of the
8 United States.

9 THE COURT: Good morning.

10 MR. LITVAK: Good morning, Your Honor. Igor Litvak,
11 on behalf of Roman Seleznev.

12 THE COURT: Good morning.

13 THE INTERPRETER: Good morning, Your Honor. Linda
14 Noble, certified Russian interpreter, previously sworn in this
15 court.

16 THE COURT: Good morning.

17 MR. COWAN: Good morning, Your Honor. Rick Cowan,
18 from the U.S. Probation Office.

19 THE COURT: Good morning. Thank you.

20 We are here for the sentencing of Mr. Seleznev. And it's
21 this Court's standard practice to begin a sentencing proceeding
22 by identifying all the documents that I received and reviewed.
23 And those documents include the following: The presentence
24 report prepared by Mr. Cowan, and that includes attachments and
25 a victim impact statements notebook. I've also reviewed the

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1 government's sentencing memorandum with Exhibit A, in DVD form,
2 and supplemental sentencing memorandum. I've also reviewed the
3 defendant's sentencing memorandum with exhibits; the
4 defendant's written statement to the Court; the defendant's
5 motion to seal, which I signed and present now for filing; and
6 the defendant's verdict form.

7 Counsel for the government, are you aware of any
8 additional documents that I did not state for the record?

9 MR. BARBOSA: Your Honor, I believe defense also
10 submitted a supplemental.

11 THE COURT: I've seen that one as well.

12 MR. LITVAK: Yes, thank you.

13 THE COURT: Any other documents from the government's
14 perspective?

15 MR. BARBOSA: No, Your Honor.

16 THE COURT: And I take it that you've had the
17 opportunity to review the presentence report?

18 MR. BARBOSA: Yes, I did.

19 THE COURT: And it's my understanding also that there
20 are no outstanding objections that require resolution by the
21 Court as far as the government's concerned.

22 MR. BARBOSA: That's correct.

23 THE COURT: Counsel for the defendant, are you aware
24 of any additional documents that I did not state for the
25 record?

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1 MR. LITVAK: No, I'm not.

2 THE COURT: And it's also my understanding that there
3 are no outstanding objections that require resolution by the
4 Court.

5 MR. LITVAK: That's correct, Your Honor.

6 THE COURT: Sir, you may be seated.

7 MR. BARBOSA: My apologies, Your Honor. My
8 co-counsel reminded me, we did object to one guideline -- lack
9 of a guideline enhancement, the leadership enhancement.

10 THE COURT: Okay. Counsel, that will be addressed by
11 the Court.

12 Do you wish to make further argument on that beyond your
13 written submission?

14 MR. BARBOSA: We'll rest on our written submission,
15 Your Honor.

16 THE COURT: With that, Counsel, I'll now announce my
17 conclusions as to the appropriate offense level and criminal
18 history category. For these calculations, I've used the 2016
19 guidelines manual, and my calculations are as follows.

20 This case involves multiple counts of conviction.
21 Therefore, grouping rules will be applied to the following
22 counts as indicated. Counts 1 through 10, wire fraud, will be
23 grouped and scored in accordance with Guideline Section
24 3D1.2(d). Counts 12 through 19, intentional damage to a
25 computer, will be grouped and scored in accordance with

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1 Guideline Section 3D1.2(d). Counts 21 through 29, obtaining
2 information from a protected computer, will be grouped and
3 scored in accordance with Guideline Section 3D1.2(d).
4 Counts 30 through 38, access device fraud, unlawful possession
5 of access devices, will be grouped and scored in accordance
6 with Guideline Section 3D1.2(d). However, by statute,
7 Counts 39 and 40 are not a part of the group and require a
8 24-month sentence that must be served consecutive to all the
9 other counts.

10 So I begin with this grouping as follows. The guidelines
11 for all offenses can be grouped in accordance with Guideline
12 Section 2B1.1. This is because several of the offenses in this
13 group have a statutory maximum sentence of 20 years. The base
14 offense level is, therefore, 7.

15 Next, the Court goes through a series of specific offender
16 characteristics which have also been calculated for the
17 guidelines.

18 The evidence produced at trial showed that the defendant
19 stole data from 2.4million credit cards. Per Application
20 Note 3F, special rules are allowed in loss calculations in
21 certain cases involving stolen or counterfeit credit cards and
22 access devices. In accordance with this application, the Court
23 adopts that as represented or suggested by the government.
24 That will be \$500 per access device to determine the loss
25 amount by applying the multiplication of 2.4 million by \$500.

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1 The loss amount for scoring purposes is thus \$1.2 billion.
2 Therefore, the loss was more than \$500 million, and the offense
3 level is thus increased by 30.

4 The next specific offense characteristic is in accordance
5 with the Guideline Section 2B1.1(b)(2)(A). This directs the
6 Court to add two levels if the offense involved ten or more
7 victims or resulted in substantial financial hardship to one or
8 more victims. The Court finds that the evidence is
9 overwhelmingly supportive of this addition and modification.

10 The next offense characteristic is in accordance with
11 Guideline Section 2B1.1(b)(4). And this directs the Court to
12 apply an upward adjustment of two levels because the offense
13 involved receiving stolen property, and the defendant was in
14 the business of receiving and selling stolen property, thus the
15 addition of two levels.

16 The next offense characteristic is in accordance with
17 Guideline Section 2B1.1(b)(10), which calls for an upward
18 adjustment of two levels because in substantial part, a
19 fraudulent scheme was committed from outside of the United
20 States, and the defendant engaged in conduct constituting
21 sophisticated means. The Court also notes that this offense
22 involves a sophisticated means as it involved extensive
23 computer hacking, the operation of several overseas websites,
24 and several online identities. This is the basis for the
25 two-level upward adjustment.

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1 The Court also looks at the additional calculation of
2 Guideline Section 2B1.1(b)(16)(A), which calls for a two-level
3 upward adjustment if the defendant derived more than \$1 million
4 in gross receipts from one or more financial institutions. In
5 this case, 3700 banks suffered actual loss. The evidence
6 showed that the defendant received a commission of \$17,000,000
7 from Liberty Reserve alone as a result of this offense.
8 Therefore, a two-level adjustment is applied.

9 The Court then looks at Guideline Section 2B1.1(b)(17) and
10 applies an additional two-level adjustment as the defendant was
11 convicted under Title 18, United States Code, Section 1030.
12 And this offense involved an intent to obtain personal
13 information, and the offense involved the unauthorized public
14 dissemination of personal information. The defendant was
15 convicted of this offense, and it centered on both elements.
16 Thus, the two-level upward adjustment is made.

17 The last adjustment is in accordance with Guideline
18 Section 2B1.1(b)(18)(A)(ii). This calls for a two-level
19 increase as the defendant was convicted of intentional damage
20 to a computer. Therefore, the four-level upward adjustment is
21 applied.

22 There is no adjustment for victim-related adjustment.

23 The government has sought the Court's adjustment for four
24 levels because of the defendant's role in the offense. The
25 Court agrees with the probation officer's estimation that it's

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1 unclear exactly who was involved in the process and operation.
2 Therefore, no adjustment is made for role in the offense.

3 The Court then looks to whether or not there was an
4 obstruction of justice in the prosecution of this case based
5 upon the defendant's conduct. The Court finds that a two-level
6 upward adjustment is made as the defendant has been found, in
7 court by this judge in previous hearings, to have made
8 untruthful remarks during testimony in court proceedings. That
9 warrants the two-level upward adjustment. This gives us a
10 total offense subtotal of 55. There are no Chapter 4
11 enhancements.

12 The Court does not find that the defendant qualifies for
13 acceptance of responsibility. The defendant was convicted
14 following a jury trial. He made no statement consistent with
15 admitting culpability and expressing remorse until after his
16 conviction. The Court recognizes that the defendant has
17 provided this Court with a detailed statement and letter, but
18 the Court finds that the timing of that letter and the
19 communications did not meet this Court's expectation.
20 Therefore, no adjustment will be made for acceptance of
21 responsibility.

22 The Court also notes that under Guideline
23 Section 2B1.1(b)(11), a two-level increase for trafficking in
24 unauthorized access devices should be applied.

25 Based upon all these calculations, the total offense level

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1 is 55. However, the offense level will be treated as 43,
2 because that's the maximum under the guidelines, which calls
3 for a sentence of life. Therefore, the Court will treat this
4 as having a total offense level of 43.

5 The defendant has a criminal history category of one;
6 supervised release range, one to three years; probation range,
7 he's not eligible; and a fine range of \$25,000 to \$250,000.

8 Counsel for the government, subject to your objections and
9 requests, do you have any dispute or challenge to the Court's
10 calculations?

11 MR. BARBOSA: A couple, briefly, Your Honor.

12 First, 2B1.1(18), the enhancement for a conviction for
13 1030(a)(5), calls for a four-level enhancement, as opposed to
14 two. And I believe the Court had noted just a two-level
15 increase for that.

16 THE COURT: 2B1.1(b)(18), Counsel?

17 MR. BARBOSA: Correct.

18 THE COURT: That is correct. That should be four.
19 That's what I have in my notes.

20 MR. BARBOSA: And as I stated just moments ago, we do
21 believe that a four-level leadership enhancement should apply.
22 I would like the Court to consider my recommendation as I make
23 my comments to the Court in relation to our sentencing
24 recommendation. I think the leadership enhancement is truly
25 the essence of this crime, and is weaved throughout the entire

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1 case. Mr. Seleznev's role in this criminal enterprise, and his
2 leadership in the carding community, I think goes to the very
3 essence of this case. And I would like the Court to keep an
4 open mind on that particular enhancement as I make my comments
5 to the Court later, in respect to my recommendation.

6 THE COURT: Let me ask you a question, Counsel.

7 With the way in which the guidelines max out, does the
8 addition of the four levels make any difference in the ultimate
9 calculation for the guidelines?

10 MR. BARBOSA: No. But I do believe that it's very
11 important in terms of the 3553(a) factors. And those factors
12 do play off of the sentencing guidelines, and I think an
13 appropriate sentencing guideline calculation is just the
14 starting point. And because the nature of his leadership role
15 is so important to the ultimate sentence and what is
16 appropriate in this case, I would just ask the Court to keep an
17 open mind on that. As you said, the guidelines here are well
18 off the charts, and it doesn't matter in terms of the numbers
19 and just the mathematical calculations, but the feel of this
20 case is very much one of leadership.

21 THE COURT: Well, Counsel, the Court will certainly
22 take into consideration your arguments now as well as your
23 arguments in just a few minutes.

24 MR. BARBOSA: Thank you.

25 THE COURT: Counsel for the defense, do you wish to

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1 respond to the Court's calculations?

2 MR. LITVAK: Your Honor, we have no objection to the
3 calculations of the Court.

4 THE COURT: Thank you, sir.

5 MR. LITVAK: Thank you.

6 THE COURT: We're going to proceed in the following
7 order. First, I'll hear from counsel for the government
8 regarding the government's recommendation. I'll then hear from
9 probation to see if Mr. Cowan has any additions or
10 modifications of his sentencing recommendation. Defense
11 counsel will be the last person to address the Court before
12 Mr. Seleznev speaks, if he so desires.

13 Counsel for the government, your recommendation?

14 MR. BARBOSA: Thank you, Your Honor.

15 As we said in our sentencing memo, this is truly an
16 unprecedented prosecution. For 15 years, defendant's entire
17 adult life, he broke into payment systems at hundreds of
18 businesses all over the world. He stole millions of credit
19 cards. Over 2.9 million unique credit cards were found in his
20 possession. And that amount, found just directly in his
21 possession, almost certainly massively understates the total
22 number of credit card numbers the defendant stole over the
23 course of his career.

24 The losses tied to just those known cards caused over
25 \$169 million in actual fraudulent charges. That is a

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1 staggering loss amount that exceeds any fraud loss that this
2 courthouse has ever seen before by millions, tens of millions
3 of dollars. Those losses impacted over 3700 different banks
4 around the world, from large, well-recognized banks, like Chase
5 and Bank of America, to small, local banks and credit unions,
6 like First Community Bank of the Ozarks, Boulder Municipal
7 Employees Credit Union, and our own local Boeing Employees
8 Credit Union. And these losses are a direct result of this
9 defendant's computer hacking empire.

10 Defendant's status as a leader of organized cybercrime
11 supports the government's recommendation of 30 years in prison.
12 He was no low-level street fraudster. He wasn't even a
13 mid-level criminal. This defendant was a market leader in the
14 international underground criminal carding community.

15 Over the course of a decade, he built a reputation in the
16 carding community, and he became revered in the Russian
17 organized cybercrime world. When he went on vacation, the
18 carding world noticed immediately. When he was unavailable,
19 they knew what was going on. They relied on him for a steady
20 stream of stolen credit cards. And when he wasn't around, the
21 carding community and the carding forums erupted with
22 discussion about that, because he was the go-to guy in the
23 community for the best dumps available.

24 He was truly a market titan, the Jeff Bezos of stolen
25 credit cards. His automated vending sites, that we saw in the

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1 trial, helped grow the market for stolen credit card data.
2 That was a unique innovation that he pioneered. And over the
3 years, he became so well known and respected in the carding
4 community that when he opened his last vending site, 2paccc, he
5 was trusted by other prominent hackers to fence their stolen
6 credit card data. And that came from some of the largest
7 breaches of the last ten years, including Target, Home Depot,
8 Nieman Marcus, Michael's, and many others.

9 And this defendant didn't only streamline the supply for
10 stolen credit card data, his posdumps website was a webinar on
11 how to commit credit card fraud. And that helped stimulate the
12 demand for stolen credit cards by teaching literally thousands
13 of other fraudsters how to steal from banks worldwide.

14 And to be clear, the defendant had no qualms about the
15 criminal nature of his activities. We're talking about a man
16 with the audacity to post a tutorial on the open internet --
17 this wasn't hidden behind some firewall, or something that
18 needed to be vouched into -- where he explicitly was training
19 people on what was, quote, "the illegal way" to earn hundreds
20 of thousands of dollars through fraud.

21 The victim impact from all of this activity was also
22 massive. The businesses defendant attacked were often
23 devastated by the impact. These were, as you heard, by
24 defendant's design, small businesses, like pizza shops and
25 newsstands, that were ill-equipped to fight back against

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1 Mr. Seleznev. And the victims he attacked weren't corporate
2 giants. They were hardworking individuals, operating on very
3 tight profit margins in the restaurant business.

4 His attacks yanked away their ability to make a living.
5 They had to pay significant fines to the card brands, sometimes
6 over a hundred thousand dollars. They had to hire private
7 forensic investigators at a cost of tens of thousands of
8 dollars. And in many instances, their business reputations
9 were damaged beyond repair. Some, like the Broadway Grill,
10 were forced out of business entirely as a result of this. And
11 others, like the Houston Zoo, had to divert precious resources
12 away from planned upgrades to their facilities to the cost of
13 incident response and remediation. And business owners like
14 Sid Fanarof, who testified at the trial, described how they
15 were broken down by the stress of responding to this to the
16 point of a nervous breakdown. And this was just a very small
17 sampling of the victims that were impacted by defendant's
18 crimes. He affected people like this all over the country and
19 all around the world.

20 The losses tied to the banks were also incredible. The
21 largest victim banks in this case lost over \$10 million each.
22 These are losses that the entire community bears in the form of
23 higher banking fees and just the cost of doing business. It's
24 truly the type of crime that impacts the entire community and
25 has effects across the entire economy.

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1 And while defendant's -- while defendant's victims were
2 getting hammered by his attacks, defendant reveled in his
3 success. This is a case that was driven by old-fashioned greed
4 and ego. I have some photos I'd like to go over here. We've
5 seen some of these before. But I think it's important to
6 highlight what motivated this defendant.

7 He was making millions and millions of dollars off his
8 hacking. And he was living like a mob boss. While he
9 carefully avoided countries that might extradite him to the
10 United States, he was traveling to high-end resorts around the
11 world, and he frequently took his crew with him. He and his
12 buddies were buying up high-end sports cars. And in videos and
13 photographs from his cell phone, we've seen him and his friends
14 driving these cars around the streets of Vladivostok, in
15 Moscow, like they owned the road.

16 In several other photos and videos from his phone, we saw
17 that his crew treated him like a Tony-Soprano-style mob boss.
18 In a nod to the Sopranos, they even commissioned a painting of
19 Roman as Napoleon, just as Mr. Soprano had had done in an
20 episode of the TV show.

21 As track2 and bulba, the midpoint of his career, which
22 represents just three years of his decade-long career, he
23 profited nearly 18 million dollars through a single payment
24 service, Liberty Reserve. That doesn't even account for the
25 proceeds from other payment services, like WebMoney and

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1 Bitcoin, or from his days as nCuX, or the money he made
2 operating 2paccc. Using that money, he bought homes in Bali,
3 Indonesia; Vladivostok, Moscow. And the last resort he stayed
4 at in the Maldives was a private beach resort that we see here
5 that cost over \$1,400 a night. He had a \$20,000 hotel bill
6 before he was captured.

7 Defendant behaved like the quintessential mobster, and he
8 was throwing money around without a care, on the backs of small
9 businesses all over the United States. And while he waltzed
10 around in luxury, he did so knowing that corrupt officials in
11 his own country would tip him off if he was in danger of being
12 captured.

13 We've had this case before you for nearly three years.
14 And I think defendant's conduct throughout the case truly
15 demonstrated a disregard for the truth and further supports the
16 government's recommended sentence. He engaged in a strategy of
17 delay and obstruction from the very beginning of this case in
18 Guam, holding up his transfer to this district for nearly a
19 month.

20 And his strategy worked in some ways. As we stated at the
21 motion to continue, back in May of 2016, at least one important
22 witness became unavailable to the government. We still don't
23 know exactly what happened with the defendant's ex-wife. As
24 the Court is aware, she provided valuable information to the
25 government, and we did intend to call her as a witness.

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1 Shortly before the May 2016 trial date, she told government
2 agents that she was scared of the defendant and his father and
3 deathly afraid of going back to Russia because of that. Yet
4 immediately after that conversation with government agents, she
5 unexpectedly flew back to Russia, and has not been heard from
6 since spring of 2016. Defendant claims he had absolutely
7 nothing to do with this, but we just don't know. What we do
8 know from his conversations with his father is that they were
9 aware of the fact that she was a witness, they discussed it
10 frequently, and were very concerned about her testimony.

11 In addition to potential witness tampering, defendant
12 engaged in repeated instances of obstruction through false
13 testimony at pretrial hearings. The Court has already found
14 him not credible in at least two prior hearings. Among other
15 things, he lied when he testified about how agents treated him
16 during his arrest. He claimed they physically abused him,
17 while, in fact, they treated him with kid gloves. As the Court
18 noted, they gave him a steak dinner on the flight to Guam. Or
19 swearing under oath that his lawyers never gave him a
20 translated copy of the proffer agreement, when lawyers produced
21 the translation to the Court and both of them testified that
22 they had provided it to him.

23 Your Honor, the sentence in this case is also important to
24 deter other cyber criminals around the world. You've seen a
25 lot of testimony in this case about the difficulty of solving

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1 computer intrusions. Suspects are hidden behind multiple
2 layers of anonymity on the internet. Evidence is often located
3 in multiple jurisdictions around the world. And some of those
4 jurisdictions will not cooperate with U.S. law enforcement.
5 Defendants like Mr. Seleznev have the ability to hide in
6 countries that will not cooperate with U.S. law enforcement or
7 extradite them to face justice.

8 As the Court saw through the testimony of Detective Dunn
9 and other government experts, these investigations can only be
10 successful with the leadership of extraordinarily talented
11 investigators. Those resources are very hard to come by. When
12 folks like this aren't available, the internet is literally in
13 jeopardy. So when law enforcement succeeds in capturing a
14 top-tier cyber criminal like this defendant, the sentence needs
15 to be sufficient to make others think twice about launching
16 cyber attacks against our community.

17 The sentence also needs to be sufficient to protect the
18 public from future crimes of this particular defendant.
19 Defendant's history and characteristics show a very high
20 likelihood of recidivism. He had multiple opportunities to
21 stop these crimes, but every time he returned to hacking, and
22 every time he got better at it and committed more serious
23 crimes. There's every reason to believe that if given a
24 lenient sentence, defendant would return to the same criminal
25 enterprise that made him rich. And once released back to

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1 Russia, he will be completely beyond the reach of U.S. law
2 enforcement. So this sentence must also serve to protect the
3 public from a defendant who could act with impunity if he were
4 released.

5 Now, the Court is required to consider other sentences
6 imposed in similar cases, to the extent possible. But as we
7 noted in our sentencing memo, Mr. Seleznev's case stands out as
8 unique in several aspects. Unlike many past cyber criminals,
9 this defendant made no genuine effort to cooperate until the
10 very last minute, long after the information he had was of
11 significant use to the government. And unlike some of the
12 other major carders sentenced in the past, none were so
13 prolific for such a long time and in such a brazen way as this
14 defendant. And no other case has involved a defendant like
15 Mr. Seleznev, who not only failed to accept responsibility, but
16 actively sought to obstruct the trial process for over two
17 years.

18 Finally, defendant's stature in the cybercrime community,
19 his reputation and his skills as a major organized crime
20 leader, distinguishes him from most other defendants and calls
21 for a much more significant sentence than seen in other cases.
22 So we believe that the government's recommended sentence does
23 avoid any unwarranted sentencing disparity.

24 Defendant now claims that he only went to trial based on
25 his attorneys' bad advice. That is complete nonsense. For the

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1 last two years, as you've seen, the defendant has spoken to his
2 father frequently on recorded jail calls. And throughout his
3 case, his conversations with his father revealed his attorneys
4 were uniformly encouraging him to try and strike a deal. Every
5 time his attorneys suggested that he should try and strike a
6 deal, the defendant accused them of being lazy or ineffective
7 and demanded a trial.

8 As a result, he's gone through six sets of attorneys,
9 which is just astonishing. Only the Court knows all of the
10 reasons that defendant cited for firing his attorneys; we were
11 excluded from those hearings. But what we do know is that in
12 his conversations with his father, he was not complaining about
13 his attorneys' failure to negotiate a plea agreement. He was
14 complaining they were too focused on exactly that, and that he
15 wanted to go to trial. It was his choice to try and obstruct
16 this process and delay this process for two years, nobody
17 else's.

18 Defendant's plea for leniency based on his medical
19 impairments is likewise unsupported by the record. He clearly
20 suffered serious injuries in 2011. But all of the evidence
21 that we have seen, including his appearances in court and the
22 records that defense counsel submitted, suggest that he has
23 fully recovered, and any lingering concerns, including
24 seizures, are adequately controlled by medication at the FDC.
25 The records show that the one significant seizure he had in May

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1 of 2016 -- or May of 2015, excuse me -- came immediately
2 following him firing his attorneys on the eve of his motion to
3 dismiss, and he had refused to take his medication that day.
4 The medical notes from the FDC suggested concerns that he may
5 have even faked that seizure.

6 Most importantly, defendant may have had a better argument
7 in this regard if he had actually stopped hacking after his
8 injury in 2011. But we know he didn't. As soon as he
9 recovered, he returned to carding, built his enterprise even
10 further, and became more successful.

11 As far as defendant's offer of cooperation is concerned,
12 it's truly just too little too late. As the Court is aware,
13 defendant had an opportunity to cooperate in 2014. He
14 explicitly refused to provide helpful information. As he sat
15 across the table from myself and Mr. Wilkinson, he repeatedly
16 said that he knew information about major players in the
17 cybercrime world. But when asked specifically, "Who are they?
18 What can you tell us?" he affirmatively told us, "I'm not going
19 to give you that information. I think this is a negotiation,"
20 and he shut down that meeting. He stuck with that position for
21 another two years.

22 Now, we're nearly three years out from his arrest. A lot
23 of the information that he has is stale. Some of it is beyond
24 the statute of limitations. And we had told him, at the time
25 in 2014 -- and we emphasized this repeatedly through counsel --

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1 that if he wanted to cooperate, he needed to do so quickly.

2 This should really be a message to other hackers who are
3 in custody or facing extradition to the United States: If you
4 want to cooperate in cybercrime, you need to do so immediately.
5 Cybercrime information disappears very quickly. These
6 investigations move fast. So defendants who sit on valuable
7 information for nearly three years are not of assistance to the
8 United States.

9 The defendant also says he's ready to start paying
10 restitution by selling his properties in Bali, transferring his
11 funds from Russian bank accounts. That is the very first
12 mention we have heard of any efforts to pay back his victims.
13 And as the Court heard earlier in this case, defendant claimed
14 he didn't have any money and needed court-appointed counsel.
15 At the end of this sentencing, he will still remain in control
16 of those properties and any funds he may have, and we still
17 don't have the ability to get our hands on those funds. He's
18 taken no active steps to do so prior to this sentencing.

19 A couple of housekeeping notes on the restitution and
20 forfeiture. The restitution has been adjusted to reflect
21 losses from Victim C.J. Saretto. I presented that to
22 Mr. Litvak. He had no objection. So I'll give you the final
23 total restitution amount to state at the pronouncement of
24 judgment. It is \$169,905,166.49.

25 We also have prepared a proposed order of forfeiture --

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1 THE COURT: Counsel, let's clarify on the victim
2 businesses.

3 Is that \$465,742.95?

4 MR. BARBOSA: Just a moment, Your Honor.

5 On the businesses, it has gone up to \$486,000 --

6 THE COURT: Just a second. Okay.

7 MR. BARBOSA: -- 322.95.

8 THE COURT: Is it your understanding that there's no
9 dispute by defense?

10 MR. BARBOSA: Correct.

11 THE COURT: Please continue.

12 MR. BARBOSA: I've also presented a proposed
13 forfeiture order in the amount of \$17,886,971. That is for the
14 Court's signature and pronouncement as part of the sentence.
15 Mr. Litvak has reviewed that and has no objection, I believe,
16 too. That represents the amount of proceeds the defendant
17 earned from this crime through Liberty Reserve. It is not by
18 any means a complete calculation of all the proceeds he may
19 have earned, but it is the one solid record that we have as
20 admitted at trial.

21 I'd like to also briefly address the pending charges in
22 Las Vegas and Atlanta. The potential for additional time in
23 those cases should have no bearing on this case. At this
24 point, the outcome of those cases is purely speculative. We
25 don't know what may happen. And I think the Court should

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1 sentence defendant here based solely on this case. If and when
2 defendant is convicted in Las Vegas or Atlanta, those
3 sentencing judges will obviously be aware of this record and
4 can take that into account as appropriate.

5 In conclusion, Your Honor, the government's
6 recommendation, while serious, as probation points out, is a
7 substantial variance downward from the guidelines. The
8 guidelines call for life here. Defendant's crimes impacted
9 nearly every district in the United States as well as dozens of
10 other countries. The statutory maximum penalties for all of
11 the counts for which defendant was convicted allow for up to
12 519 years.

13 And I mention this both to underscore the seriousness of
14 the offenses of conviction, but also to point out that
15 statutory maximums rarely have anything to do with the actual
16 sentence a defendant faces. This is important in international
17 hacking cases, because foreign observers often mistakenly or
18 misleadingly report that the United States is trying to send
19 low-level hackers to jail for life. We are not asking for a
20 life sentence. Thirty years is a very long sentence, but
21 defendant will be in his fifties when he is released. And it
22 is far from unreasonable in light of the extraordinary nature
23 and circumstances of this case.

24 We believe a 30-year sentence is truly necessary to
25 reflect the seriousness of this offense, to deter others from

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1 engaging in similar conduct, and to prevent this defendant from
2 engaging in future criminal conduct.

3 Thank you.

4 THE COURT: Thank you, Counsel.

5 Probation? Mr. Cowan?

6 MR. COWAN: Thank you, Your Honor.

7 I've listened to Mr. Barbosa's presentation, and I've
8 certainly read all of Mr. Litvak's filings and memoranda, and
9 I've interviewed Mr. Seleznev. I don't have anything to add to
10 our written materials.

11 Our sentence is one that protects the public. It is a
12 just sentence. It takes into account all of the 3553(a)
13 factors. And it is also a sentence that is far below the
14 guidelines. A 27-year total sentence is our recommendation.
15 And as Mr. Barbosa just concluded, that is -- if we were to
16 recommend a life sentence, as the guidelines suggest, this
17 would be a 60-plus-year sentence. And that's not our
18 recommendation. We are taking into account Mr. Seleznev's
19 letter to the Court, his massive injuries, his health problems.
20 And I think this recommended sentence strikes a balance between
21 all of those factors.

22 THE COURT: Thank you, sir.

23 Mr. Litvak?

24 MR. LITVAK: Your Honor, Mr. Seleznev is extremely,
25 extremely sorry about his conduct and for the crimes he has

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1 committed. There are no words to describe how bad he feels for
2 what he has done. Watching his victims' testimony during the
3 trial, he wanted to cry afterwards, having come face-to-face
4 with the suffering he's inflicted. He's extremely embarrassed
5 and ashamed, and he has fully accepted responsibility for his
6 actions and stands ready to accept punishment of this Court.

7 The Court must now to decide what is the appropriate
8 sentence while considering a number of factors, including
9 multiple statutes, now advisory guidelines, and its own sense
10 of fairness. Your Honor, I firmly believe that the sentence
11 recommended by the Department of Probation or the U.S.
12 Attorney's Office is a sentence that a civilized society should
13 not and will not accept as a just and fair punishment.

14 It's undisputed that the crimes Mr. Seleznev's committed
15 are very, very serious. He has caused financial hardship to
16 countless of people and businesses. However, a 27- or 30-year
17 sentence, considering all the circumstances in this case,
18 including his physical condition, is completely inappropriate.

19 Mr. Seleznev was a young man who has already suffered a
20 lot during his short life. He was born in a period of a lot of
21 change in Russia, a period of political globalization, which
22 was also followed by economic degradation.

23 When he was two years old, his parents divorced, and he
24 was left in the care of his mother, who was an alcoholic and
25 barely earned enough to support them. They lived in extreme,

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1 extreme poverty, in the beginning sharing a small apartment
2 with a number of other families. He did not have a
3 relationship with his father at the time, who already lived in
4 Moscow, and rarely saw him since the divorce.

5 When he was 17, he came home to discover his mother, dead,
6 in the bathtub. She was 40 years old. His mother's death left
7 him completely alone in a hostile world, a 17-year-old
8 teenager, with no parents, no financial support, and on the
9 verge of losing his home.

10 It's this desperate situation, combined with a lack of
11 economic opportunity or any assistance from social services, is
12 what led Mr. Seleznev to get involved in the hacking
13 underworld. There, he found an outlet. By associating with
14 people who he did not know, and who did not know him or know
15 his pain, allowed him to forget his own pain.

16 And those people had tremendous impact on him. Without
17 his parents or any other positive influence, he eventually
18 became a hacker himself. I mention these things, Your Honor,
19 because I strongly believe that each person is a product of his
20 or her environment. It shapes our decisions and actions. And
21 it has rarely been more true than in Mr. Seleznev's case.
22 Numerous studies have shown that lack of family structure
23 negatively impacts one's development. And I'm certain that had
24 Mr. Seleznev been raised in a loving, stable home, he never
25 would have gotten involved in any criminal activity.

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1 It was not until his mid- to late twenties that
2 Mr. Seleznev established a relationship with his father. By
3 then, Mr. Seleznev was already married and had a young
4 daughter. However, in 2009, he faced another challenge when he
5 was robbed and tortured in order to reveal the location of his
6 money. Fearing of the same for his family and wanting to start
7 a new life, a life free of crime, Mr. Seleznev went to live in
8 Indonesia, where for a period of time he completely stopped all
9 of his criminal activity. Unfortunately, few months later,
10 after being unable to find a legitimate source of income, he
11 returned to a life of crime.

12 In addition, his wife, who he thought at the time was the
13 only person who truly cared and loved him, expected a
14 comfortable lifestyle, and Mr. Seleznev feared losing her if he
15 was no longer able to provide that.

16 Your Honor, there's been a lot of speculation that the
17 Russian government told Mr. Seleznev he was wanted by the
18 Secret Service. It was mentioned in the recent filings as well
19 as an article in the *New York Times*. However, I want to say on
20 his behalf, it's completely not true. No Russian government
21 official ever told him that he was wanted in the United States.

22 The reason why he stopped his criminal activities in 2009,
23 as I already mentioned, was because he was tortured and robbed,
24 and he was concerned for his safety and going to start a new
25 life in a new place. The narrative that has been created in

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1 the public is that Mr. Seleznev is a rich, spoiled son of a
2 Russian parliament member, and therefore is untouchable in
3 Russia. Although the Russian people and the Russian government
4 deeply, deeply care about his welfare and are doing everything
5 they can to support him, the narrative of a rich, spoiled boy
6 who is protected by the Russian government is just not true and
7 unfair. As I mentioned before, it was not until his late --
8 his mid- to late twenties that Mr. Seleznev established a
9 relationship with his father, who by then was already a member
10 of the Russian parliament.

11 Mr. Seleznev may have bragged in a few e-mails and a few
12 chats that he had supposed FSB connections, Russian law
13 enforcement connections, but he did that because he believed it
14 would raise his profile among his hacking peers, when, in
15 reality, nothing further could be from the truth. He had no
16 FSB connections. Nobody told him that he was wanted in the
17 U.S. And besides referring to two chats with unclear meaning,
18 the government has presented no other evidence to corroborate
19 that theory.

20 The government, in its sentencing memo, points out that
21 Mr. Seleznev waited until after sentencing -- I'm sorry --
22 until after the trial to accept responsibility. However, I
23 think it's important to remember that he was brought to a
24 country where he's never been to, and where he knew no one.
25 It's an understatement to say that he was extremely scared and

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1 confused. He did not know who to believe and trust. He had an
2 army of attorneys who were giving him conflicting information,
3 and most of whom did not speak his native language. It was in
4 this unfortunate environment that Mr. Seleznev made the wrong
5 decision to fight this case.

6 I mention that, Your Honor, because I think it's important
7 to convey the reasons for the decisions he made in this case,
8 because I believe they're important for the Court to consider,
9 and explain in big part why this case ended with a trial, and
10 not a plea.

11 Your Honor, when I met Mr. Seleznev for the first time,
12 before I really had a chance to say anything, he immediately
13 told me that he wanted to accept full responsibility for his
14 crimes. To me, it was evident that he was not just doing it in
15 an opportunistic moment, but because he fully understood and
16 accepted his guilt. To that effect, Mr. Seleznev, with my
17 help, arranged for four laptops and six flash drives to be
18 brought from Russia, which I then turned over to the
19 government.

20 What's more, Mr. Seleznev wants to actively rectify the
21 consequences of his crimes and use his knowledge and experience
22 in preventing future cyber attacks. There have been
23 discussions with the government to determine the best way he
24 can help in that regard. Mr. Seleznev has made significant and
25 proactive efforts to establish cooperation with the government.

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1 And besides turning over his four laptops and flash drives, as
2 was already mentioned in recent filings, he also participated
3 in a two-day proffer session where he was completely honest and
4 forthcoming. He had no reason to lie at those proffers. Most
5 important that regardless of the sentence he receives today, he
6 stands ready to assist the U.S. government in eradicating this
7 type of crime.

8 Besides accepting full responsibility and sincerely
9 apologizing for his actions, Mr. Seleznev wants to pay as much
10 restitution to his victims as possible. And therefore, he
11 disclosed all of his personal and real estate assets with the
12 idea of selling them and helping the government to take control
13 of them and sell them so the victims can be paid back to the
14 extent possible. As I already pointed out in my sentencing
15 memo, the government did not know about those properties and
16 assets, and would never know of them unless Mr. Seleznev
17 disclosed them.

18 Perhaps the biggest reason why the recommendation -- why
19 the recommended sentence is completely inappropriate is due to
20 Mr. Seleznev's medical condition. As was acknowledged by the
21 government, in April of 2011, Mr. Seleznev was very, very
22 seriously injured in a terrorist attack in Morocco. While in a
23 coma, close to death, he was flown to Russia for emergency
24 treatment and undergone many, many surgeries. The doctors
25 there did not think that he would survive. They thought that

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1 at best he would be a vegetable for the rest of his life. It
2 took him months, many months, to learn how to walk and speak
3 again. Around the same time, he was also diagnosed with
4 hepatitis B, most likely from the blood transfusion in Morocco.

5 Your Honor, medical records submitted to court described
6 in great detail serious, long-term brain trauma as well as
7 other health-related complications. One of the most serious
8 concerns is the fact that 30 percent of his brain is covered
9 with a titanium plate which requires constant medical attention
10 and care. In fact, over the past two-and-a-half years, he
11 repeatedly asked the department -- the Bureau of Prisons to be
12 examined by the doctor, only to have all those requests
13 summarily denied. He made multiple complaints about this issue
14 to no avail.

15 Your Honor, Mr. Seleznev continues to suffer from the
16 injuries he sustained in the bombing, and will continue to do
17 so for the rest of his life. He needs to be on numerous
18 medications, and periodically has seizures as was recorded in
19 the BOP medical records.

20 Given Mr. Seleznev's medical condition, the sentence being
21 proposed by the government will result in him dying in an
22 American jail. The government, which was provided with his
23 medical records, failed to really address that issue in its
24 filings, and I think it's telling. The government urges this
25 Court to send a message to the world that these types of crimes

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1 will not be tolerated. However, Your Honor, I'm also asking
2 you to send another type of message, the one that says that
3 American people have compassion and mercy for those who are
4 gravely ill.

5 As I mentioned in my sentencing memo, courts have
6 considered medical condition as a mitigating factor in
7 fashioning sentences in criminal cases. And given his
8 injuries, he deserves the same consideration.

9 The government's memo talked a lot about sentences
10 received by other defendants, and argues that given the scope
11 of his crimes, and the fact that this case ended in a trial,
12 means that he should be sentenced to a much higher term. Your
13 Honor, as far as I know, none of those defendants mentioned in
14 the government memo suffered anything resembling Mr. Seleznev's
15 injuries. In fact, I believe that no cyber criminal with
16 medical conditions similar to his was ever sentenced to a term
17 anywhere close than that proposed by the government.

18 Although Mr. Seleznev's crimes are very, very serious, I
19 think it's also important to remember that this is not a case
20 involving physical violence, drugs, or dangerous weapons. And
21 considering his physical state, combined with other factors I
22 discussed earlier, including the fact he has two other open
23 cases, Mr. Seleznev should be sentenced to a term far less than
24 that recommended by the government.

25 Your Honor, the government is concerned if Mr. Seleznev

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1 were to be released early, he would return to a life of crime.
2 Your Honor, that's just not the case. The circumstances that
3 led him to -- that led him to the wrong path in life are no
4 longer present. He now has an established relationship with
5 his father, he has a new fiancée, and two daughters, one his
6 own and one he hopes to adopt soon.

7 Furthermore, during the pendency of this case,
8 Mr. Seleznev participated in 20 Bible study courses, obtained a
9 certificate in paralegal studies with honors, as well as a
10 certificate in advanced paralegal studies in criminal law.
11 Furthermore, he's working on getting a bachelor's degree in
12 hotel and restaurant management. All of these things show that
13 Mr. Seleznev left forever the life of crime behind him, never
14 to return.

15 He's about to pay a terrible price for his actions, but
16 it's clear that he learned his lesson. He wants to help the
17 government any way he can, and is asking to be given the chance
18 to show that he can reform himself, to show that he could be
19 great father, good son, good husband, and a citizen that Russia
20 would be proud of. And I think he could be that person, Your
21 Honor, as described in multiple letters of support.
22 Furthermore, Your Honor, if he gets out early, he will work
23 tirelessly to pay his victims back.

24 In conclusion, I respectfully submit to the Court that
25 sentencing Mr. Seleznev to the proposed term will result in a

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1 complete miscarriage of justice. Given the particular
2 circumstances of this case and Mr. Seleznev's characteristics,
3 such sentence would send the wrong type of message to the world
4 about America.

5 I detailed my legal arguments in the sentencing memo. I
6 do not see a reason to repeat them again. However, I believe I
7 want to make clear to this Court that this Court has the legal
8 basis and authority to sentence Mr. Seleznev to a term which is
9 substantially reduced from the guidelines. Such sentence will
10 give him a chance and would give him and his family a chance to
11 begin rebuilding their lives.

12 Thank you.

13 THE COURT: Thank you, Counsel.

14 Mr. Seleznev, your lawyer has spoken for you. He's
15 provided a detailed memorandum, which I've read. And that
16 includes the letter that you provided to the Court, which
17 appears to have been written in your own handwriting.

18 Sir, you're not required to say anything, if you choose
19 not to address the Court. But if there's something that you'd
20 like to tell me, please step to the lecturn and share your
21 thoughts from that location.

22 THE DEFENDANT: Over there?

23 THE COURT: Yes. Thank you.

24 THE DEFENDANT: Thank you, Your Honor.

25 THE COURT: You're welcome.

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1 THE DEFENDANT: Firstly, I would like to express my
2 appreciation to Your Honor for allowing me to speak and express
3 how I honestly feel about my behavior and crimes which caused
4 so much damage and suffering to so many. Your time, effort,
5 and consideration while allowing me the opportunity to voice
6 myself in your courtroom today is very kind.

7 It has been several years since my arrest and
8 incarceration for the crimes I commit. I want to promise Your
9 Honor, the prosecutor attorney, the government of United States
10 of America, and most important, to all of my victims, that not
11 one day has passed which I have not felt extreme sympathy and
12 sadness for the crimes I commit and negative impact to my
13 victims. I'm not saying this simply because I got caught or
14 because I'm guilty. I'm saying this because I want to express
15 my sorrow and how I do realize the impact my crimes caused to
16 the American peoples, law enforcement, and to all those who
17 worked countless hours to bring me to the justice.

18 My crimes have hurt so many people on so many levels that
19 it bring me great shame and humility for what I have done. I
20 have been advised and have seen the normal penalties that are
21 before me with regards to my sentence. In no capacity do I
22 want my words or feelings to be understood as an attempt to
23 minimize the seriousness of my wrongdoings.

24 During the past several years of my incarceration, I have
25 been located in many different areas within the Federal Bureau

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1 of Prisons. Most of the time, I have been located in Seattle
2 Sea-Tac Detention Center. One unit I have spent a lot of time
3 is considered to be a protective custody housing unit. At this
4 location, I have learned about many individual crimes, crimes
5 such as child rape, child molestation, child pornography, and
6 many, many other morally disgusting offenses. I have observed
7 these peoples come and go the past few years. I have seen
8 their sentence between 5 to 15 years for the crimes that are
9 unspeakable. I understand these crimes different in nature to
10 my crimes, but is it not reasonable -- is it not reasonable for
11 me to beg this Court for -- and Your Honor for the sentence
12 that will allow me to have hope for some day being released so
13 I can pay back the huge restitution that this Court is going to
14 require from me?

15 I understand a long sentence is coming to me today. As a
16 reasonable man, I accept this as my reality. I also understand
17 that I'm in no position to ask for anything after what I have
18 done.

19 So in final effort to believe in something other than my
20 days in prison, I breathe, pray, and beg Your Honor for mercy.
21 Please understand, I am not a man connected with politic or the
22 Russian government officials. I'm not connected with any
23 community. I am here alone today, 10,000 miles from my home,
24 my father, brothers, fiancée, and children. I have a family
25 who cares about me very much. Like any family, they also are

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1 going through huge emotional pain having me incarcerated. My
2 family are good people. And I know that -- I recognize the
3 pain of my victims also. My family has pledged the
4 unconditional support of me as well as to my victims. These
5 are people who want to help me fix and resolve this negative
6 situation that I have created.

7 I ask that you will take into consideration that I have
8 serious brain injury. Many doctors and surgeons, included
9 those within Federal Bureau of Prisons, believe it is a miracle
10 that I'm alive today. With my brain trauma, most of them
11 agrees that I will not live past the age of 50 years old, such
12 a person of my health.

13 And I know by God's grace only I will be able to stand
14 here to face my punishment. I understand the sentence I am
15 about to receive is because my own actions. Again, I'm very
16 sorry to all for what I have done. I pray God will bless all
17 of you and allow this Court to have mercy on me.

18 Thank you for your time, consideration, and understanding,
19 Your Honor.

20 THE COURT: Thank you, Mr. Seleznev. You may be
21 seated.

22 There being nothing further to come before this Court,
23 Mr. Seleznev, this Court is required to calculate the
24 appropriate guideline range, and I've done that, and to look at
25 that and consider any traditional departures or variances that

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1 might be applicable in view of the facts and circumstances, and
2 I've done that as well. In fashioning a sentence, this Court
3 is required to look at all the Section 3553(a) factors of the
4 sentencing guidelines. It's my practice to go through those
5 factors that serve as the basis of the sentence that I will
6 ultimately impose.

7 Sir, I look at your history and characteristics. What I
8 see is, first of all, the lack of parental guidance. The fact
9 that you were abandoned at a young age and the fact that your
10 mother died at an early age left you in a situation of
11 challenging circumstances for an individual. And I find that
12 to be a mitigating circumstance as far as your history and
13 background.

14 But, sir, when I look at the other features of your
15 history, for multiple years, in a good percentage of your life
16 after 17, it's been dedicated to credit card fraud. In many
17 ways, credit card hacking has been your alter ego. The Court
18 finds that you were characterized by the government as a cyber
19 criminal, and that you manipulated our system of justice at
20 every step along the way to your conviction. These are
21 aggravating circumstances.

22 The Court then looks to the nature and circumstances of
23 the offense. And when I look at an offense that involves
24 computer fraud schemes with hacking, repeatedly over the years,
25 with known losses of \$170 million, with enormous profits to

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1 yourself, these damages are enormous and are staggering to
2 businesses, credit unions, banks, resulting in business
3 closures, bankruptcy, added exposure to business expenses,
4 reputation losses. And these are just a few of the damages
5 that have been sustained by the victims. So the entirety of
6 the nature and circumstances of this offense are aggravating.

7 The Court looks at the need for the sentence to reflect
8 the seriousness of the offense. The Court can't help but look
9 at the extraordinary losses with extraordinary devastation to
10 multiple victims at all levels because of your conduct; again,
11 all aggravating circumstances.

12 The Court then looks at the need to promote respect for
13 the law and to provide just punishment. There had been a
14 finding by this Court that there's no true acceptance of
15 responsibility by you. I accept that you have filed a letter
16 with this Court, and I accept your, what appear to be,
17 heartfelt statements of apology to the Court. But I'm not
18 quite certain if the apology and the acceptance of
19 responsibility at this time is reality or pure fiction just to
20 justify a reduced or lowered sentence. Again, the Court finds
21 these to be aggravating circumstances.

22 The Court also needs to impose a sentence to afford
23 adequate deterrence to criminal conduct, not just to your
24 conduct, but to ensure that other individuals that are even
25 contemplating or thinking about an opportunity in computer

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1 hacking, that that is not a wise course of action. The Court
2 also looks at the need to protect the public from further
3 crimes by you, and the Court will impose a sentence that will
4 certainly take that into consideration.

5 I've also looked at the need to avoid sentencing
6 disparity. So it's of value to the Court to be able to see,
7 from both sides, what they believe to be comparable
8 circumstances and other individuals, for the Court to be able
9 to justify a sentence that would not create sentencing
10 disparity.

11 So with these factors, sir, the first thing I will do is
12 not place you on any term of supervised release. The Court
13 finds that there are fines that range from \$25,000 to \$250,000.
14 But I find that in light of the amount of restitution, I will
15 not impose any other fine, but I will impose a special
16 assessment fine for all counts. And that is \$3,800. That
17 amount is due immediately.

18 It's apparent to the Court, based upon the representation
19 of the government and comments of counsel, that the parties are
20 in agreement on the total amount of restitution. So as to the
21 financial institutions and the victim businesses, the Court
22 accepts the amount of restitution as represented by the
23 government in its allocution to the Court.

24 Having imposed all the other conditions of sentence, the
25 only real issue is the issue of custodial time.

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1 Mr. Seleznev, I thought long and hard about what to do
2 with your sentencing. You and I are not strangers. You have
3 been in this court multiple times. That includes hearings
4 which are open to the public and hearings which were closed so
5 that I had the opportunity to consult with you and your lawyers
6 regarding circumstances as you progressed your way to proceed
7 to trial.

8 I suspect, Mr. Seleznev, that you probably never imagined
9 that you would be here today, seated in federal court, with
10 lawyers representing the United States asking for a sentence
11 almost double the amount of time that you've been on this
12 planet. I suspect that you also never imagined, when you first
13 started down the road of deception in the cyber underworld,
14 that you would ever be caught.

15 For years, you enjoyed hidden destinations, faraway
16 places, believing you were completely beyond the grasp of law
17 enforcement or prosecution in the United States. It's no
18 wonder the first statement to come out of your mouth upon your
19 arrest was not concern about your fiancée or her child, or even
20 a claim of innocence. Instead, your only question was whether
21 law enforcement had an extradition treaty.

22 Mr. Seleznev, I respect that you had a challenged
23 upbringing, a father who abandoned you at a tender age, and a
24 mother that succumbed to her battle with alcohol addiction when
25 you were only 17, leaving you to fend for yourself in a world

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1 where no one seemed to be your friend or care for you as
2 family. There's no question that loss of parents at that age
3 and the absence of parental guidance had some influence on
4 choices you made of who you would become or what you wanted to
5 do in life.

6 Mr. Seleznev, while you may have had these obstacles, you
7 fit into the exact same category of countless individuals in
8 this country who face horrendous challenges and financial
9 strain in the early years, yet these individuals did not resort
10 to a life of cyber predator aggression to make their fortunes
11 on the backs of innocent people and their businesses. They
12 made their fortunes the old-fashioned way. They got jobs, they
13 earned money, and they created businesses. Mr. Seleznev, the
14 statute of limitations on you blaming your childhood as a
15 reason for your criminal behavior has long since expired.

16 Mr. Seleznev, you had multiple occurrences in your life
17 where you had the chance to reset your moral navigation system
18 and avoid a life of crime. You worked hard to educate yourself
19 in computer use. You're to be applauded for that. That
20 education was an opportunity to change how you dedicated
21 yourself with that talent. Unfortunately, you elected to
22 pursue the pathway of a fraudster. Your education was your
23 first chance to avoid what you face today.

24 In mid-June 2009, you obviously became aware of law
25 enforcement closing in on you, because you abruptly closed your

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1 operation and notified your customers that you were going out
2 of business, and your cyber alias was shut down. This was your
3 second chance to cease your activities and probably escape any
4 prosecution by any law enforcement officer in the United
5 States.

6 When you became aware that you were being sought by law
7 enforcement, in lieu of terminating your connection to
8 cybercrime, you took a deep dive and worked more aggressively
9 to cover your tracks and avoid apprehension. You retooled your
10 operation to become bolder and bigger in your means and
11 methods.

12 Your third chance to avoid all this occurred when you had
13 a near-death experience that should have been your wake-up call
14 to abandon the fraud that you had already committed in multiple
15 ways. Those months of recovery, struggling for your life,
16 should have been an invitation to give your wrongs -- to right
17 your wrongs and recognize that you had been given a second
18 chance in life. Instead, your recovery was focused on
19 recalibrating and building a cyber fraud dynasty. That choice
20 will cost you many years of your freedom.

21 Your entire scheme of fraud and deception have been driven
22 by one goal, and that is greed. You amassed a fortune that was
23 far beyond your needs, as demonstrated by how you frivolously
24 spent your ill-gotten gains on fast cars, exotic travel, luxury
25 living. Your lawyer said, at Page 12 of his memorandum, that

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1 there were large numbers of individuals and businesses subject
2 to your deeds, but they suffered relatively minor financial
3 losses. I'm not surprised by the advocacy of that argument,
4 when one considers you spent nearly \$20,000 for a long weekend
5 in the Maldives just before your arrest. That \$20,000 at that
6 time may have been just pocket change for you, but it was
7 devastating to one of the small business owners who since that
8 time had been nearly crippled in his business and livelihood.
9 His is just one of the litany of damages suffered from scores
10 of plain, ordinary members of our community trying to earn a
11 decent living.

12 Mr. Seleznev, your lawyer is asking the Court to impose a
13 sentence essentially of time served and probation, or something
14 very slight in the scheme of punishment. So I have to ask you
15 and anyone else, what deterrent value would that have for you
16 or any other individual contemplating hacking as a livelihood?

17 If one looks at the basic math of the \$18 million you
18 earned from just one payment system -- just one payment
19 system -- it comes out as follows. For about three years of
20 cyber fraud, you earned about \$6 million per year, just that
21 one system. If the Court were to give you three years in
22 prison for that rate, I would be sending a message to every
23 other computer hacker that crime really does pay, and pay
24 extremely well with minor consequences. Not today.

25 While I suspect that there's a community of hackers who

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1 see you as a cyber genius, I'm deeply confident that every
2 single one of the victims in this case see you as a cyber
3 nightmare.

4 Mr. Seleznev, as I sentence you today, please do not leave
5 this court believing that Judge Jones is punishing you for the
6 deeds of all the other uncaught hackers that are thriving, that
7 are attacking every aspect of our lives in America.

8 Mr. Seleznev, no. I'm sentencing you for your conduct and your
9 deeds, nothing more, nothing less.

10 Mr. Seleznev, I sentence you to a total of 324 months, or
11 27 years. I'll follow the recommendation of the probation
12 office in this matter.

13 And that calculates as follows. On Count 1 through 10 --
14 that's the wire fraud -- that's a total of 300 months,
15 concurrent with one another and concurrent with other counts,
16 except for Counts 39 and 40; Counts 12 through 19, intentional
17 damage to a protected computer, and access device fraud,
18 Counts 30 through 38, sentence of 120 months, concurrent with
19 one another, except for Counts 39 and 40; Counts 21 to 29,
20 obtaining information from a protected computer, 60 months,
21 concurrent with the others and other counts, except for
22 Counts 39 and 40; and on Counts 39 to 40, that's 24 months
23 consecutive to the others, as required by statute.

24 In this regard, I believe the overall sentence is
25 reasonable and sufficient, but no more than necessary to carry

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1 out the objectives of sentencing.

2 Counsel for the government, are you in a position to
3 challenge the determination by this Court?

4 MR. BARBOSA: No, Your Honor.

5 THE COURT: Counsel for the defendant, are you in a
6 position to challenge the determination by this Court?

7 MR. LITVAK: No, Your Honor.

8 THE COURT: Counsel for the government, I'll ask that
9 you wait for the Court to advise the defendant of his
10 constitutional rights before you present the judgment to him.

11 Mr. Seleznev, the Court wishes to give you your rights on
12 appeal. If you wish to appeal the sentence of a finding of
13 guilt, it's very important that you tell your lawyer that's
14 exactly what you wish to do. He can explain what issues are
15 appealable and what issues may survive.

16 In addition to those rights, I also wish to advise you you
17 have a right to challenge your counsel's effectiveness. If you
18 wish to appeal the sentence or your conviction, and you cannot
19 afford the filing fee for the Court of Appeals, you can ask me
20 to waive it, and I'll direct the court clerk to prepare, at no
21 cost to you, a notice of appeal to be filed upon your request.

22 Lastly, the waiver does not preclude you from bringing an
23 appropriate motion, pursuant to Title 28, United States Code,
24 Section 2241, to address the conditions of your confinement or
25 the decisions of the Bureau of Prisons regarding the execution

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1 of your sentence.

2 Do you understand each of these rights, sir?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: I wish to emphasize any notice of appeal
5 must be filed within 14 days of the entry of this judgment.

6 Do you understand that as well, sir?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: All right. Counsel, if you have the
9 judgment completed, you may present it.

10 MR. BARBOSA: It's going to take a moment, Your
11 Honor.

12 THE COURT: Counsel, I have the order of forfeiture.
13 I'm signing it and presenting it to the in-court deputy.

14 MR. BARBOSA: Is there a placement recommendation,
15 Your Honor?

16 THE COURT: Is there a request, Counsel?

17 MR. LITVAK: Sir?

18 MR. BARBOSA: Do you have any request for placement
19 in a particular facility?

20 MR. LITVAK: No.

21 THE COURT: There wasn't one filed in the sentencing
22 memorandum, Counsel.

23 MR. BARBOSA: Your Honor, I'm going to show this to
24 probation first.

25 Your Honor, this is probably going to take about five

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1 minutes. I don't know if the Court wants to have a brief
2 recess?

3 THE COURT: Why don't we take a short recess, and
4 call the Court when you're ready.

5 MR. BARBOSA: Thank you.

6 (Recess)

7 MR. BARBOSA: Your Honor, we've prepared a judgment,
8 and counsel has reviewed it.

9 THE COURT: Is that correct, Counsel?

10 MR. LITVAK: Yes, I have, Your Honor.

11 THE COURT: Any objection to its --

12 MR. LITVAK: No objection.

13 THE COURT: And probation, I take it, has had the
14 opportunity to inspect as well?

15 MR. COWAN: Yes, Your Honor.

16 THE COURT: You may approach.

17 Counsel, I will note that I did not indicate this in open
18 court, but I will affirm in open court that there's no interest
19 requirement. That's going to be waived on the restitution
20 amount, because I want the focus to be on restitution, as
21 opposed to the interest rate.

22 I've reviewed the judgment. It does reflect my oral
23 ruling. I've signed it. This concludes this proceeding.

24 We'll be in recess.

25 (Adjourned)

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(End of requested transcript)

* * *

I certify that the foregoing is a correct transcript from
the record of proceedings in the above matter.

Date: 4/21/17

/s/ Andrea Ramirez

Signature of Court Reporter